

Ellen Dowd, Esq.  
State Bar Number 141206  
2658 Del Mar Heights Road #228  
Del Mar, California 92014  
(858) 342-8360  
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**Attorney for Plaintiff, C.S.**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

C.S., by and through his Conservator,  
MARY STRUBLE, on behalf of himself  
and all others similarly situated,  
  
Plaintiff,  
  
v.  
  
CALIFORNIA DEPARTMENT OF  
EDUCATION, a State Agency,  
\_\_\_\_\_  
Defendant.

I, Ellen Dowd, declare as follows:

1. I am an attorney admitted and in good standing in all of the state and federal Courts in the State of California, including this honorable court.

2. I am attorney of record for Plaintiff herein, and make this declaration on behalf of Plaintiff, and all others similarly situated, meanings disabled students and their parents who have, through a special education due process hearing before OAH's ALJs, obtained less than complete relief sought.

1           3. I have personal knowledge of the facts stated herein, and, if called as a  
2 witness, I could and would testify competently thereto. I make this declaration in  
3 support of Plaintiff's Sur-Reply in Support of Plaintiff's Opposition to OAH's  
4 Motion For Intervention.

5           4. On December 7, 2007, in response to an application for Modification  
6 of Decision, I received a letter from Chief Presiding Administrative Law Judge,  
7 Ronald Diedrich, which denied this request. A true copy of Mr. Diedrich's letter is  
8 attached hereto as Exhibit "1".

9           5. On July 24, 2007 I did a Public Records Act Request to OAH for  
10 "Copies of any correspondence between OAH, Special Education Division and the  
11 U.S. Department of Education, either by facsimile or United States mail,  
12 concerning the Interagency Agreement No. 4427, between CDE and OAH dated  
13 May 25, 2005, from 6/1/05 to present." A true copy of this request is attached  
14 hereto as Exhibit "2".

15           6. On July 31, 2007, I received a response to my Public Records Act  
16 Request from OAH, which stated, I am in receipt of your Public Records Act  
17 Request dated July 24, 2007, for copies of 'any correspondence between OAH,  
18 Special Education Division and the U.S. Department of Education, either by  
19 facsimile or United States mail, concerning the Interagency Agreement, No. 4427,  
20 between CDE and OAH dated May 25, 2005, from 6/1/05 to Present.'2 After a  
21 thorough and diligent search, the Office of Administrative Hearings has found no  
22 documents responsive to your request." A true copy of OAH's letter is attached  
23 hereto as Exhibit '3'.  
24

25           I declare under penalty of perjury under the laws of the United States of  
26 America and the State of California that the foregoing is true and correct.

27           Executed this 4th day of April, 2008 at San Diego, California.

28             
Ellen Dowd

## **EXHIBIT “1”**



## OFFICE OF ADMINISTRATIVE HEARINGS

State of California

2349 Gateway Oaks Drive, Suite 200, Sacramento, CA 95833-4231  
 General Jurisdiction -- (916) 263-0550 phone / (916) 263-0554 fax  
 Special Education -- (916) 263-0880 phone / (916) 263-0890 fax  
 www.oah.dgs.ca.gov

Department of General Services

December 7, 2007

Ellen Dowd, Esq.  
 Special Education Law Center  
 2658 Del Mar Heights Road #228  
 Del Mar, California 92014

Sharon Watt, Esq.  
 Filarksy & Watt, LLP  
 408 Bryant Circle, Suite C  
 Ojai, California 93023

RE: *Christopher Struble v. Fallbrook Union High School District*,  
 OAH Case No. 2007090067

Dear Ms. Dowd and Ms. Watt:

I have reviewed Ms. Dowd's November 30, 2007 letter in which she requests that I modify Administrative Law Judge Susan Ruff's decision in the above referenced case, as well as Ms. Watt's December 4, 2007 letter opposing that request.

I know of no legal authority, nor was any cited, which allows me to reconsider or modify a decision that has been issued by an administrative law judge. Accordingly, the request is denied. In denying this request I am making no determination as to the merit of the substantive legal allegations, or the propriety of Judge Ruff either granting or denying a request to reconsider her decision in this matter.

At this point, I am forwarding your correspondence to Judge Ruff who can rule upon the propriety and merit of Ms. Dowd's request.

I would also remind the parties that they have the right to appeal the matter to a court of competent jurisdiction.

## Regional Offices

**Los Angeles**  
 320 West Fourth Street  
 Suite 630  
 Los Angeles, CA 90013  
 (213) 576-7200  
 Fax (213) 576-7244

**Oakland**  
 1515 Clay Street  
 Suite 206  
 Oakland, CA 94612  
 (510) 622-2722  
 Fax (510) 622-2743

**San Diego**  
 1350 Front Street  
 Suite 6022  
 San Diego, CA 92101  
 (619) 525-4475  
 Fax (619) 525-4419

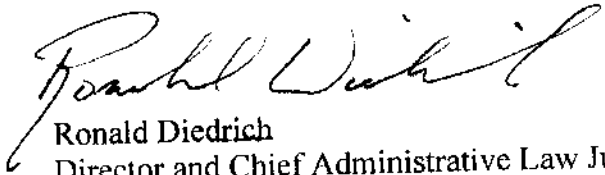
**Laguna Hills**  
 23046 Avenida De La Carlota  
 Suite 750  
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 (949) 598-5850  
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**Van Nuys**  
 15350 Sherman Way  
 Suite 300  
 Van Nuys, CA 91406  
 (818) 904-2383  
 Fax (818) 904-2360

Subject: *Christopher Struble v. Fallbrook Union High School District*,  
OAH Case No. 2007090067  
December 07, 2007  
Page 2

Thank you for bringing to my attention the underlying legal issue for which modification is sought. I will bring this interesting legal issue to the attention of the Presiding Administrative Law Judges so that future training on that subject may be conducted.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald Diedrich", written in a cursive style.

Ronald Diedrich  
Director and Chief Administrative Law Judge  
Office of Administrative Hearings  
State of California

cc: Susan Ruff, Administrative Law Judge  
Timothy Newlove, Presiding Administrative Law Judge  
Shane Berli, California Department of Education

## **EXHIBIT “2”**

**Ellen Dowd  
Attorney At Law  
State Bar # 141206  
Special Education Legal Center  
2658 Del Mar Heights Road #228  
Del Mar, California 92014  
(Tel) 858-342-8360 (Fax) 858-755-6348**

July 24, 2007

Phoenix R. Vigil  
Public Records Review Officer  
Office of Administrative Hearings  
2349 Gateway Oaks Drive  
Suite 200  
Sacramento, California 92833-4321

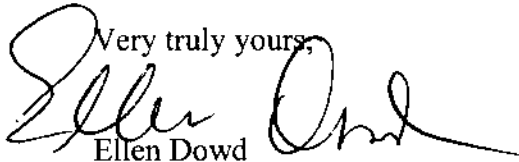
VIA Fax # 916-263-0890

Dear Ms. Vigil:

In accordance with Public Records Act, California Government Code §6250 et seq.  
please provide me with the following documents:

(1) Copies of any correspondence between OAH, Special Education Division and the U.S. Department of Education, either by facsimile or United States mail, concerning the Interagency Agreement, No. 4427, between CDE and OAH dated May 25, 2005, from 6/1/05 to present.

I agree to be responsible for all charges for the photocopying of the above documents, if any.  
If there are not more than 30 pages, please fax them to me within the statutory time period.  
Thank you.

Very truly yours,  
  
Ellen Dowd

## **EXHIBIT “3”**





OFFICE OF ADMINISTRATIVE HEARINGS

State of California

2349 Gateway Oaks Drive, Suite 200, Sacramento, CA 95833-4231  
General Jurisdiction – (916) 263-0550 phone / (916) 263-0554 fax  
Special Education – (916) 263-0880 phone / (916) 263-0890 fax  
www.oah.dgs.ca.gov

Department of General Services

July 31, 2007

*Via facsimile transmission and U.S. Mail*

Ellen Dowd  
Special Education Legal Center  
2658 Del Mark Heights Road, #228  
Del Mar, CA 92014  
Fax: 858-755-6348

Re: Public Records Act Request – 07-028

Dear Ms. Dowd:

I am in receipt of your Public Records Act request dated July 24, 2007, for copies of “any correspondence between OAH, Special Education Division and the U.S. Department of Education, either by facsimile or United States mail, concerning the Interagency Agreement, No. 4427, between CDE and OAH dated May 25, 2005, from 6/1/05 to present.”

After a thorough and diligent search, the Office of Administrative Hearings has found no documents responsive to your request.

Sincerely,

A handwritten signature in cursive script, reading "Phoenix R. Vigil", is positioned below the word "Sincerely,".

PHOENIX R. VIGIL  
Public Records Review Officer  
Office of Administrative Hearings

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Regional Offices

**Los Angeles**  
320 West Fourth Street  
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(213) 576-7200  
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